

**IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR**

BEFORE

HON'BLE SHRI JUSTICE G. S. AHLUWALIA

ON THE 20th OF NOVEMBER, 2024

WRIT PETITION No. 5824 of 2017

VINAY YADAV AND OTHERS

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Girija Shankar Sharma – Advocate for petitioners.

Shri G.K. Agrawal – Government Advocate for respondent/State.

ORDER

This petition, under Article 226 of the Constitution of India has been filed seeking following relief(s):

- (i) That, the impugned order annexure P/1 may kindly be quashed.
- (ii) That, if any order will be issued in compliance of annexure P/1 by the respondent authority may also kindly be quashed.
- (iii) That, the respondent may kindly be further directed to permitted the petitioner on the post of Accountant.
- (iv) That, any other relief which deemed fit by this Hon'ble Court in the fact and circumstances of the case.
- (v) That, the other relief doing justice including cost be awarded.

2. It is the case of the petitioners that the Professional Examination Board conducted a recruitment examination for the post of Accountant. The minimum qualification was:-

- (i) Graduation Degree in Commerce with minimum 50% of marks;
- (ii) Diploma in Computer awarded by any University/Open University recognized by UGC or D.E.O.A.C.A. level of diploma or certificate regarding Modern Office Management issued by Govt. Polytechnic College.

3. It is submitted by counsel for petitioners that they have obtained P.G.D.C.A. Course from Maharshi Mahesh Yogi Vedic Vishwavidyalaya, Madhya Pradesh and thus they are qualified for the post of Accountant. They were declared selected and they were posted in District Morena in Block Sabalgarh, Porsa and Ambah. The petitioners also submitted their joining at the respective places. However, now, by impugned order dated 28.08.2017 passed by the Commissioner, Rajya Shiksha Kendra, Bhopal in File No./R.Sh.K./Est./2017/6229 the petitioners have been declared disqualified.

4. Challenging the order passed by the Rajya Shiksha Kendra, it is submitted by counsel for petitioners that petitioner No.1 has been declared disqualified for having obtained PGDCA diploma from private college, by doing off campus course whereas petitioners No.2 and 3 have been declared disqualified for having DCA Diploma from a private college by doing off campus course. It is submitted by counsel for petitioners that since Maharshi Mahesh Yogi Vedic Vishwavidyalaya, Madhya Pradesh, is a recognized university having its territorial jurisdiction over entire State of M.P., therefore, rejection of PGDCA diploma course obtained from a franchisee of Maharshi Mahesh Yogi Vedic Vishwavidyalaya, Madhya Pradesh is bad in law.

5. *Per contra*, petition is vehemently opposed by counsel for the respondents. By referring to Circular dated 09.08.2014 issued by U.G.C. in File No.UGC/DEB/QMC/2013, it is submitted by counsel for respondents that no University whether Central, State, private or deemed, can offer its programmes through franchisee arrangement with private coaching institutions even for the purpose of conducting courses through distant mode. It is further submitted that in

the present case, the petitioners have obtained PGDCA/DCA courses by prosecuting their studies in MY-0109: II TECH Institute, Gwalior, which is an off-campus course run by franchisee of Maharshi Mahesh Yogi Vedic Vishwavidyalaya, Madhya Pradesh, therefore, it is not a recognized one.

6. Although the petitioners have filed their rejoinder and have claimed that Maharshi Mahesh Yogi Vedic Vishwavidyalaya, Madhya Pradesh has territorial jurisdiction over the entire State of M.P. but have not assailed aforesaid circular issued by UGC.

7. An additional return has been filed by the respondents relying upon the public notice issued by UGC pointing out that off campus courses cannot be run through franchisee.

8. Considered the submissions made by counsel for the parties.

9. Undisputedly, the petitioners have obtained their PGDCA, DCA courses diploma from franchisees given by Maharshi Mahesh Yogi Vedic Vishwavidyalaya, Madhya Pradesh through off-campus course. Now, the only question for consideration is as to whether private universities can run off campus courses through franchisees or not? The circular dated 09.08.2014 filed by respondents as R-1 reads as under:-

F. No. UGC/DEB/QMC/2013

09, August, 2014

The Vice Chancellors/Directors
SOU's/DEIs/DDEs

Subject : Territorial jurisdiction & offering of programmes through off campus/Study Centres etc. by Institutions/Universities- reg.

Sir/Madam,

The University Grants Commission has from time to time been notifying its policy on territorial jurisdiction and offering of programmes through off campuses/centres/study centres by Universities/Institutions. Vide its Public Notice No. F.27-1/2012 (CPP-II), dated 27th June 2013 (copy enclosed), UGC has notified its policy on territorial jurisdiction to be followed by all Universities/Institutions including Open and Distance Learning Institutions, which is as under:

- i) a Central or State Government University can conduct

courses on its own departments, its constituent colleges and/or through its affiliated colleges;

ii) a University established or incorporated by or under a State Act shall operate only within the territorial jurisdiction allotted to it under its Act and in no case beyond the territory of the State of its location;

iii) the private universities and deemed universities cannot affiliate any college or institution for conducting courses leading to award of its diplomas, degrees or other qualifications;

(iv) no university, whether central, state, private or deemed, can offer its programmes through franchising arrangement with private coaching institutions even for the purpose of conducting courses through distance mode;

(v) all universities shall award only such degrees as are specified by the UGC and published in the official Gazette;

vi) the universities shall conduct their first degrees and Master's degree programmes in accordance with the regulations notified by the UGC in this regard.

2. The UGC has also issued regulations relating to Private Universities and Deemed Universities which should be strictly followed by the concerned University. A copy of these regulations is hosted on UGC website www.ugc.ac.in.

3. However, it has come to the notice of the UGC that some Universities are offering programmes through distance mode without approval of UGC/ erstwhile DEC and several Universities/Institutions have opened their study centres in violation of the policy of UGC and erstwhile DEC on territorial jurisdiction. Some Institutions are giving misleading advertisements in newspapers and other public media that the programmes offered by these Institutions are approved by the UGC. The same is not permissible by UGC and should be immediately stopped.

4. Therefore, all Universities/Institutions are hereby requested to offer only those programmes which are approved by UGC/erstwhile DEC and follow the policy of UGC on territorial jurisdiction, study centres, and non-franchising of study centres for offering programmes through distance mode. The activities at the study centre such as admission, examination, conduct of Personal Conduct Programmes (PCPs) etc. should be operated by the concerned University. Study centres cannot conduct examinations on their own nor can they award degree/diploma etc. No sub-letting of study centres should be allowed and any such centre opened by any University/institution would be in

violation of the UGC policy.

5. The UGC/erstwhile DEC has not given approval to any University for opening of ODL study centres outside India. Thus, operation of any such centre is wholly invalid and must be immediately closed. Universities/Institutions are also requested to close down any study centre opened in violation of above policy. Also any programme not recognized by the UGC/erstwhile DEC and wherever necessary by other Apex regulatory bodies, should not be offered through distance mode.

Yours faithfully,

(Jaspal Singh Sandhu)
Secretary

10. Similarly, the public notice issued by UGC which has been filed as Annexure R-2 along with additional return reads as under:-

Public Notice on Private Universities

It has come to the notice of the University Grants Commission that some of the State Private Universities have affiliated colleges and started off-campus centre(s) in violation of the UGC (Establishment of and Maintenance of Standards in Private Universities) Regulation, 2003 and against the judgment of Hon'ble Supreme Court in case of Prof. Yash Pal & Others Vs. State of Chhattisgarh & Others. Some of these Universities are running these Centres on franchising basis also which is not allowed.

The public at large and the student community in particular are therefore informed that as per the information available with the UGC as on date, there are following 273 Private Universities established by the Acts of the Legislatures of different States:-

STATE AND UTs

Arunachal Pradesh	Assam
Gujarat	Haryana
Himachal Pradesh	Jharkhand
Karnataka	Chhattisgarh
Madhya Pradesh	Maharashtra
Manipur	Meghalaya
Mizoram	Nagaland

Orissa	Punjab
Rajasthan	Sikkim
Tripura	Uttar Pradesh
Uttarakhand	West Bengal

These 273 Universities are competent to award degrees as specified by UGC under Section 22 of the UGC Act with the approval of the statutory councils, wherever required through their main campus. Wherever the approval of the statutory council is not a pre-requisite to start a programme, the Universities are required to maintain the minimum standards regarding academic and physical infrastructure as laid down by the concerned statutory council.

It is also informed that Private Universities cannot affiliate an institution/college. They cannot establish off campus centre(s) beyond the territorial jurisdiction of the concerned State, however, they can establish off-campus centre(s) within the concerned State after their existence of five years and with the prior approval of the University Grants Commission. So far, UGC has not approved any off campus centre(s) of any Private University.

Course(s) under distance mode can be started by the private university only after the prior approval of the UGC. Information about the validity of the courses offered under distance mode may be obtained from Distance Education bureau of UGC. 35, Ferozshah Road, North Delhi (ph no. 011-23381050).

Students /Public at large are advised to go through this website carefully at the time of taking admission and should clarify the status of the University from UGC before taking admission in any Private University other than those listed above.

Further, para 3.7 & 3.8 of the UGC (Establishment of and Maintenance of Standards in Private Universities) Regulations, 2003 are reproduced below for information of all the Private Universities:-

3.7 A private University shall provide all the relevant information relating to the first degree and post-graduate degree/diploma programme(s) including the curriculum structure, contents, teaching and learning process, examination and evaluation system and the eligibility criteria for admission of students, to the UGC on a proforma prescribed by the UGC prior to starting of these programmes.

3.8 The UGC on detailed examination of the information made available as well as the representations and grievances received by it from the students as well as concerned public relating to the deficiencies of the

proposed programme(s) not conforming to various UGC Regulations, shall inform the concerned University about any shortcomings in respect of conformity to relevant regulations, for rectification. The University shall offer the programme(s) only after necessary rectification.

A copy of the UGC (Establishment and Maintenance of Standards in Private Universities) Regulations, 2003 along with the proforma for submission of information by the Private University are annexed with the notice.

Secretary
UGC, New Delhi

Thus, it is clear that adequate advertisement was given by UGC to all the persons who wanted to prosecute their PGDCA/DCA courses by informing them well in advance that any off-campus course done from a franchisee is not a recognized one.

11. Under these circumstances, this Court is of the considered opinion that since the Maharshi Mahesh Yogi Vedic Vishwavidyalaya, Madhya Pradesh was not entitled to run off-campus course through franchisee, therefore, any certificate issued by Maharshi Mahesh Yogi Vedic Vishwavidyalaya, Madhya Pradesh on the basis of off-campus course run by its franchisee cannot have any legal sanctity. Under these circumstances, this Court is of considered opinion that the Rajya Shiksha Kendra did not commit any mistake by declaring petitioners No.1 to 3 as disqualified for the post of Accountant.

12. Accordingly, the order dated 28.08.2017 passed by the Commissioner, Rajya Shiksha Kendra, Bhopal in File No./R.Sh.K./Est./2017/6229 is hereby **affirmed**. It appears that petitioners must be continuing in service on the strength of interim order dated 04.09.2017. Accordingly, the interim order is hereby **vacated**. The petitioners shall stop performing as Accountant with immediate effect.

13. With aforesaid direction, petition is ***dismissed***.

(G. S. AHLUWALIA)
Judge